IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 187 of 2003

Sou.Sugandha Suryakant Sawant ..Appellant

V/s

Shri Dhaku Waghu Chogule .. Respondent

Rahul S. Kate for Appellant

CORAM:S.R.SATHE,J.

DATED:7th October 2005

P.C.:-

1. Heard the learned Advocate for the appellant.

2. Plaintiff filed a suit for mandatory injunction directing the defendant to remove the hut erected by him in the suit land owned by the plaintiff. It was alleged that defendant erected the hut in December 1991. The defendant opposed the suit claim and contended that his house is situated in the suit land for last 100 years and the suit filed by the plaintiff is barred by law of limitation.

3. Admittedly prior to the present suit previously there was some litigation between the same parties in respect of the land in question. It had transpired that even at that

time i.e. in the year 1989 the hut in question was in existence. In fact the trial Court observed that the hut in question filed in 1992 is in existence since prior to 1979. The trial Court, therefore, held that the suit for mandatory injunction is barred by law of limitation and dismissed the suit. The said order of dismissal was confirmed by the first appellate Court.

4. The learned Advocate for the Appellant plaintiff could not point out any error of law in the judgment of the first appellate Court, nor there is anything on record to show that the courts below have not properly appreciated the evidence or finding of fact given by the courts below is perverse. Thus there is no substantial question of law involved in the present appeal. The second appeal is dismissed in limine.

(S.R.SATHE,J.)